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10/505,230	07/01/2005	Gijs Robert Van Den Brink	VAN DEN BRINK1	1902
1444 7590 08/06/2008 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303				
EXAMINER				
HOWARD, ZACHARY C				
ART UNIT		PAPER NUMBER		
1646				
MAIL DATE		DELIVERY MODE		
08/06/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# **Notice of Non-Compliant Amendment (37 CFR 1.121)**

**Application No.**

10/505,230

**Examiner**

ZACHARY C. HOWARD

**Applicant(s)**

VAN DEN BRINK ET AL.

**Art Unit**

1646

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

The amendment document filed on **20 May 2008** is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

## **TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an **after-final** amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/E. Kemmerer/  
Pr. Exmr., AU 1646

Legal Instruments Examiner (LIE), if applicable

Telephone No.

**Notice of Non-Compliant Amendment (37 CFR 1.121)**

Continuation of 4(e) Other:

37 CFR 1.121(c) states "Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection" and "All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters".

In the instant application, the amended claims submitted 5/20/08 do not include markings that indicate all of the changes that have been made relative to the immediate prior version of the claims. Specifically, each of claims 1 and 8 do not indicate all of the changes between the version submitted 5/20/08 and the prior version of the claims submitted 8/27/07.

With respect to claim 1, the amended claim does not indicate the following changes:

Claim 1, line 2, recites "an adult subject" in line 2. However, the immediate previous version of the claim filed on 8/27/2007 recites "a subject". There are no markings in the currently amended claim to indicate the change from "a subject" to "an adult subject".

Also, Claim 1, line 5, contains a non-compliant marking. Specifically, the word "source" is both underlined and striked-through.

With respect to claim 8, the amended claim does not indicate the following changes correctly:

Claim 8, line 8, indicates that the words "prevent or" are newly added. However, these words were present in line 8 of the claim prior to amendment and there is no indication of a deletion of the previous recitation of "prevent or" (i.e., "prevent or reverse" was changed to "prevent or treat", and thus "prevent or" should not be indicated as being added, particularly because the prior recitation of "prevent or" is not indicated as being deleted).

The Examiner regrets that these non-compliant amendments to the claims were not brought to Applicants' attention in the Notice of Non-Compliant Amendment that was mailed on 5/19/08. The non-compliant amendment (a sentence added to the specification that was underlined) that triggered the 5/19/08 mailing was noticed by USPTO personnel processing the response prior to it being forwarded to the Examiner.